S.B.CIVIL WRIT PETITION NO.3545/2007

Jagdish Chandra Khatik

versus

State of Rajasthan & Anr.

Date of Order :: 5th September, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Girish Joshi, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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The order dated 24.4.2007, whereby the respondent State placed the petitioner under suspension while exercising powers under sub-sec.(4) of Section 38 of the Rajasthan Panchayati Raj Act, 1994 (hereinafter referred to as "the Act of 1994"), is under challenge. The petitioner has also challenged initiation of inquiry against him and framing of charge under sub-sec.(1) of Section 38 of the Act of 1994.

The petitioner, while holding the office of Sarpanch, Gram Panchayat, Khemana, was found involved in a criminal case relating to violation of Sections 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988. A first information report in this regard was lodged on 1.3.2007 at Prevention of Corruption

Bureau, Bhilwara. On registration of criminal case the Government also decided to hold an inquiry in accordance with sub-sec.(1) of Section 38 of the Act of 1994 and the petitioner, therefore, was placed under suspension as prescribed under sub-sec.(4) of Section 38 of the Act of 1994.

While assailing validity of initiation of inquiry and placement of the petitioner suspension, it is contended by counsel for the petitioner that before framing charge, no preliminary inquiry was conducted by the respondents. I do not find any substance in the contention so raised as under sub-sec.(1) of Section 38 of the Act of 1994 the holding of preliminary inquiry before conducting regular inquiry is not a pre-condition. I also do not find any substance in the contention raised by counsel for the petitioner to assail validity of the order of suspension dated 24.4.2007 being without jurisdiction as the criminal proceedings, according to him, is not pending trial in a court of law. From reading of the order dated 24.4.2007, it is apparent that the petitioner has been placed under suspension as an inquiry under sub-sec. (1) of Section 38 of the Act of 1994 is contemplated against him. There is no such illegality in placing the petitioner under suspension while exercising powers under sub-sec.(4) of Section 38 of the Act of 1994.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR),J.

Kkm/ps.